Court No.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (S/B) No.216 of 2006

Gopal Singh S/o late Shri Jawahar Singh
Presently posted as Working Plan Officer,
Almora Forest Division, District Almora.
..... Petitioner

Versus

1. State of Uttaranchal through Principal Secretary Forest, Government of Uttaranchal, Secretariat Dehradun, Uttaranchal.
2. Principal Chief Conservator of Forest, Forest Department, Government of Uttaranchal, Dehradun.
3. State of U.P. through Secretary Forest, Secretariat, Lucknow, U.P.
4. Principal Chief conservator of Forest, Forest Department, Government of U.P., Lucknow.

Date: 11.07.2006

Hon'ble P.C. Verma,J.
Hon'ble B.S. Verma,J.

The petitioner is holding the post of Working Plan Officer, Almora in the Department of Forest and is member of the Provincial Forest Service. The petitioner is aggrieved by the communication of the adverse entry, vide letter dated 05.06.2006 which is contained in Annexure No.1 to the writ petition. This adverse entry relates to the year 1989-90 and 1993-94. Those adverse entries communicated to the petitioner read as under:-

> "For the year 1989-90
> Disposal of work is slow resulting the backlog of the work in logging."

"For the year 1993-94

The employee should increase his knowledge relating to wildlife and insist the field staff to fill with responsibility in conservating wildlife.

The employee lacks zeal to take initiative in the programmes. No special work has been set up as an example."

2. There is no remark of the Approving Officer, only the reporting officer's version has been approved.

3. In the year 1989-90 Sri R.P. Sharma, Reporting Officer has categorized the petitioner as 'fair' and in the year 1993-94 Sri B.K. Pangti, Reporting Officer, assessed the petitioner as 'good' for overall assessment.

4. From the perusal of the entries. it is clear that adverse entries are not of serious in nature. In fact. it cannot be termed as adverse entries.

5. We have heard Sri Sudhanshu Dhulia, learned senior Advocate for the petitioner and Sri S.P.S. Panwar, learned Additional Chief Standing Counsel for the State of U.P.. A very short question falls for consideration. Therefore, we propose to dispose of the writ petition finally. In our opinion, firstly these are not the adverse entries in true sense. Even if it is to be termed as adverse entry as it has been communicated, it stood wiped off in view of Rule 5 of **The U.P. Govt. Servants (Disposal of Representation Against Adverse Annual Confidential Reports & Allied Matters) Rules 1995** (Old Rule) which reads as under:-

"**5. Report not to be treated adverse.-** Except as provided in Rule 56 of the Uttar Pradesh Fundamental Rules contained in Financial

Handbook Volume II, Parts II to IV, where an adverse report is not communicated or a representation against an adverse report has not been disposed of in accordance with Rule 4, such report shall not be treated adverse for the purposes of promotion, crossing of Efficiency Bar and other service matters of the Government Servant concerned. ”

Rule 5 (new Rule) of **The Uttaranchal Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 2002** reads as under:-

> **“5. Report not to be treated adverse.-** Expect as provided in Rule 56 of the Uttar Pradesh Fundamental Rules contained ion Financial Hand-book, Volume-II, Parts-II to IV, where an adverse report is not communicated or a representation against an adverse report has not been disposed of in accordance with Rule 4, such report shall not be treated adverse for the purposes of promotion, crossing of Efficiency Bar and other service matters of the Government Servant concerned.”

6. In view of the adverse entries for the year 1989-90 and 1993-94 communicated to the petitioner in the year 2006 cannot be treated to be adverse.

7. Thus, the petition is allowed. No order as to costs.

(B.S.Verma,J.)
11.07.2006

(P.C.Verma,J.)
11.07.2006

P.Singh